

Application No. 10/054,068

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#7/85
11-403

Application No.: 10/054,068
Applicant: David Boyd Melvin
Filed: January 22, 2002
Title: DEVICE AND METHOD FOR RESTRUCTURING
HEART CHAMBER GEOMETRY
TC/A.U.: 3738
Examiner: David J. Isabella
Confirmation No.: 7331

RESPONSE TO RESTRICTION REQUIREMENT

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OCT 30 2003

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TECHNOLOGY CENTER R3700

Sir:

Responsive to the provisional restriction requirement stated in Paper No. 5, mailed on April 23, 2003, for the application identified above, the applicant hereby traverses the requirement.

The applicant has been required, under 35 U.S.C. § 121, to provisionally elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held allowable. In order to provide a complete response to the restriction requirement, the applicant elects to prosecute claims 27, 31-33, 37, 38, 41, 48, 52, 53, 55, and 56 directed to the species disclosed in Figure 5 which illustrates the collar 62. One or more divisional applications may later be filed to prosecute the non-elected claims.

The applicant traverses the restriction requirement, however, on the ground that the patentably distinct species of the claimed invention have been misidentified. The restriction requirement identifies the patentably distinct species as:

- (1) the species illustrated by Fig. 5;
- (2) the species illustrated by Fig. 7;
- (3) the species illustrated by Fig. 11;
- (4) the species illustrated by Figs. 13;
- (5) the species illustrated by Figs. 14;
- (6) the species illustrated by Figs. 15;
- (7) the species illustrated by Figs. 16A;
- (8) the species illustrated by Figs. 16B;
- (9) the species illustrated by Figs. 17;
- (10) the species illustrated by Figs. 18;
- (11) the species illustrated by Figs. 25; and
- (12) the species illustrated by Figs. 27 A-C.

The applicant respectfully submits that the claimed invention covers the generic invention and four embodiments of that invention. The four embodiments are illustrated as:

- (1) collar 62 illustrated in Figures 5-8 and 10;
- (2) collar 162 illustrated in Figures 11-14;
- (3) collar 262 illustrated in Figure 15; and
- (4) collar 362 illustrated in Figures 16A-19 and 24-27D.

Figures 1-4 illustrate the human heart and basic principles applicable to all embodiments of the subject invention. Figures 9A and 9B illustrate pads and Figures 20-23, 28, and 29 illustrate auxiliary connectors. One or more of the pads and connectors might be used in combination with any of the embodiments of the subject invention.

The applicant provides an "Outline of Claims as Filed" to facilitate identification of the patentably distinct species:

OUTLINE OF CLAIMS AS FILED

<u>Figure(s)</u>	<u>Corresponding Claims</u>
5-8, 10	27, 31-33, 37, 38, 41, 48, 52, 53, 55, 56
11-14	27, 31, 37, 38, 41, 48, 52, 53, 55, and 56
15	27, 31-33, 37, 38, 41, 48, 52, 53, 55, 56
16A-19, 24-27D	27, 31, 37, 38, 41, 48, 52, 53, 55, and 56

The Outline shows that claims 27, 31, 37, 38, 41, 48, 52, 53, 55, and 56 are generic to all four embodiments of the claimed invention.

The Examiner is invited to call the applicant's undersigned representative if any further explanation will expedite the prosecution of the application, or if the Examiner has any suggestions or questions concerning the application or the present response.

Respectfully submitted,



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Dated: October 21, 2003

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The Commissioner for Patents is hereby authorized to charge payment to Deposit Account No. 18-0350 of any fees associated with this communication.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

October 21, 2003

Patricia C. Bocella